

**Subpart G—Security Requirements for Contractors and Subcontractors****§ 1017.35 Contractor and subcontractor access to confidential business information.**

(a) Contractors and subcontractors are responsible for maintaining the confidentiality of CBI to which they are given access under the terms of a contract.

(b) CBI may be furnished to Commission contractors and subcontractors only when it is necessary for the performance of work specified in the contract or subcontract, when the contract or subcontract contains the required clauses, when the contractor or subcontractor and their employees sign confidentiality agreements, and when the procedures in this subpart have been followed. The affected business will be notified at least ten days in advance of disclosure of CBI to contractors or subcontractors.

**§ 1017.36 Contracts and subcontracts involving access to confidential business information.**

(a) When a Commission office initiates a Request for Proposals for a contract and the contractor or subcontractor will need access to CBI to perform the work, the CPSC Project Officer responsible for the contract must request approval for such access from the AEDHS prior to initiating a Request for Proposals. The AEDHS shall approve or disapprove the request in writing based upon a determination of whether the contractor/subcontractor would require access to perform the contract and shall notify the person making the request of the decision.

(b) If the AEDHS determines that a contractor or subcontractor does not have a legitimate need to have access to data, this decision may be appealed to the Executive Director. If the Executive Director upholds the decision of the AEDHS, the denial of access may be appealed to the Chairman. Throughout this appeal process the General Counsel will be kept apprised.

(c) After the AEDHS has approved a request for contractor or subcontractor access, the office requesting the access shall notify the Contracts Branch that

the Request for Proposals and resulting contract must include the contract provision set forth in appendix VIII, "Security Procedures for Handling Confidential Business Information Provided to Contractors and Subcontractors" and that contract employees who require access to Confidential Business Information must meet the same suitability investigative requirements as Federal employees as set forth in § 1017.28.

**§ 1017.37 Award of contracts and subcontracts involving confidential business information.**

In evaluating the proposals submitted by offerors responding to the Request for Proposals, the Contracts Branch and the requesting office shall consider any potential conflicts of interest that might preclude the handling of CBI by the successful offeror. They shall also consider the offeror's past performance on similar contracts or subcontracts involving the handling of CBI or other information of confidential and/or a sensitive nature, such as national defense information or privacy information.

**§ 1017.38 Modifying existing contracts and subcontracts involving confidential business information.**

When a contract or subcontract is already in effect and a Commission office determines that it will be necessary to furnish CBI to a contractor or subcontractor to perform the work required, the procedures set forth in §§ 1017.25, 1017.36 and 1017.37 will be followed. The contract or subcontract shall be modified to include the provisions set forth in appendix VIII.

**§ 1017.39 Contractor prohibition on computer use of confidential business information.**

(a) CBI or confidential data based on, compiled from or otherwise derived from original CBI furnished by EPA may not be computerized by a contractor or subcontractor.

(b) [Reserved]